

## REMARKS

In the Office Action mailed September 29, 2004, the Examiner rejected claims 15-37. By way of the foregoing amendments and the markings to show changes, Applicants have amended claims 15 and 27 and have added new claims 38-40. The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicant would otherwise be entitled in view of the prior art.

### I. Rejection under 35 USC 102

The Office Action rejected claims 15-37 as being anticipated by George et al., US Patent No. 6,287,669 ("George"). Applicants generally traverse these rejections and suggest that the claims were patentable as originally submitted. However, in order to expedite prosecution, Applicants have amended claims 15 and 27 by adding language to more specifically claim features of the present invention. Applicants believe that such amendments further demonstrate the patentability of the claims of the present application particularly when the added language is taken as a whole along with the other language of the claims. Thus, Applicants believe that claims 15 and 27 and their dependents, 16-26 and 28-36 are allowable.

Applicants traverse the rejection of claim 37 with particularity. Applicants traverse the rejection of claim 37 on the grounds that the Office Action did not properly assert a prima facie case of anticipation against at least claim 37 of the present application. Pursuant to MPEP 2131, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Applicant asserts that the office action does not establish that a single reference showing at least the following elements in combination with the other elements of claim 37:

- i) the barrier layer including multiple layers – the Office Action does not show how George teaches a barrier layer of multiple layers;
- ii) at least one of the multiple layers is at least partially formed of polyethylene terephthalate – the Office Action merely points to

- col. 2, lines 29-30 of George, which does not call out a polyethylene terephthalate; or
- iii) the adhesion layer including a methacrylate copolymer, a bisphenol, a curing agent and an adhesion promoter.

Thus, Applicants assert that the office action does not present a prima facie showing of anticipation under 35 U.S.C. §102. Applicants request that the rejection of claims 37 be withdrawn.

Furthermore, Applicants point out that it would likely be improper to present a final rejection of claims 37 on a grounds alternative to that already presented since applicants have not amended claims 37 in a manner, which would necessitate such alternative grounds. In particular, the MPEP reads: “[u]nder present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant’s amendment of the claims nor base on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee...” MPEP 706.07(a)

## II. New Claims

Applicants have added claims 38-40 to address various aspects of the present application.

By amending the application, the Applicants do not concede that the patent coverage available to them would not extend as far as the original claim. Rather, Applicants intend to file a continuation application to pursue the breadth of the claims as filed. Applicants believe that the Examiner has not made a sufficient showing of inherency of the teachings of the asserted prior art, especially given the lack of teachings in the cited references of the properties that Applicants have recited in their claims.

Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an

equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

### CONCLUSIONS

In view of Applicants' amendments and remarks, the Examiner's rejections are believed to be rendered moot. Accordingly, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned at (248) 292-2920.

If for some reason Applicant has not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge our Deposit Account No. 50-1097 for any fee which may be due.

Respectfully submitted,

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